

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSEPH YELLEN, et al.,
Plaintiffs,
v.
KELAILA RUTH LOEWEN, et al.,
Defendants.

Case No. 2:22-cv-08844-FLA (RAOx)

**ORDER REMANDING ACTION FOR
LACK OF SUBJECT MATTER
JURISDICTION**

RULING

On September 29, 2021, Plaintiffs Joseph Yellen, Christy Yellen, and Luke Yellen (“Plaintiffs”) initiated this action against Defendant Kelaila Ruth Loewen (“Defendant”) and DOES 1 to 50 in the Los Angeles County Superior Court. Dkt. 1-1 (“Compl.”). The Complaint asserts a state law cause of action relating to personal injuries arising from a motor vehicle accident. *Id.*

On December 6, 2022, Defendant removed the action to this court based on alleged diversity jurisdiction. Dkt. 1 (“NoR”). In its Notice of Removal, Defendant alleges the court has subject matter jurisdiction under 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000. *Id.* at 2. Defendant relies on Plaintiffs’ Statement of Damages served on November 7, 2022, seeking \$775,744.27. *Id.* at 5.

1 On August 4, 2023, the court ordered the parties to show cause why the action
2 should not be remanded for lack of subject matter jurisdiction due to an insufficient
3 amount in controversy. Dkt. 40. Only Defendant filed a response. Dkt. 41 (“Def.
4 Resp.”), 45 (“Def. Supp. Resp.”).

5 Having reviewed the Notice of Removal and Defendant’s response to this
6 court’s Order to Show Cause, and for the following reasons, the court finds Defendant
7 fails to establish subject matter jurisdiction and accordingly REMANDS this action to
8 the Los Angeles County Superior Court.

9 DISCUSSION

10 Federal courts are courts of “limited jurisdiction,” possessing “only that power
11 authorized by the Constitution and statute[.]” *Kokkonen v. Guardian Life Ins. Co. of*
12 *Am.*, 511 U.S. 375, 377 (1994); U.S. Const. art. III, § 2, cl. 1. District courts are
13 presumed to lack jurisdiction unless the contrary appears affirmatively from the
14 record. *See DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n. 3 (2006).
15 Additionally, federal courts have an obligation to examine jurisdiction sua sponte
16 before proceeding to the merits of a case. *See Ruhrgas AG v. Marathon Oil Co.*, 526
17 U.S. 574, 583 (1999).

18 Federal courts have jurisdiction where an action arises under federal law or
19 where each plaintiff’s citizenship is diverse from each defendant’s citizenship and the
20 amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C.
21 §§ 1331, 1332(a). Thus, a notice removing an action from state court to federal court
22 must include “a plausible allegation that the amount in controversy exceeds the
23 jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574
24 U.S. 81, 89 (2014). Where “the plaintiff contests, or the court questions, the
25 defendant’s allegation” concerning the amount in controversy, “both sides [shall]
26 submit proof,” and the court may then decide whether the defendant has proven the
27 amount in controversy “by a preponderance of the evidence.” *Id.* at 88–89. “Federal
28 jurisdiction must be rejected if there is any doubt as to the right of removal in the first

1 instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). It is Defendant’s
2 burden as the removing party to justify this court’s exercise of jurisdiction. *Id.* at 567.

3 Here, the amount of damages Plaintiffs seek cannot be determined from the
4 Complaint, as it does not set forth a specific amount. *See generally* Compl.
5 Defendant, however, contends Plaintiffs served a Statement of Damages indicating
6 Plaintiffs are seeking \$775,744.27 in general and special damages. NoR at 5; Def.
7 Resp. at 2. A statement of damages “is relevant evidence of the amount in
8 controversy if it appears to reflect a reasonable estimate of the plaintiff’s claim.”
9 *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002). “A plaintiff’s damage
10 estimate will not establish the amount in controversy, however, if it appears to be only
11 a bold optimistic prediction.” *Romsa v. Ikea U.S. West, Inc.*, Case No. 2:14-cv-05552-
12 MMM (JEMx), 2014 WL 4273265, *2 (C.D. Cal. 2014) (internal quotation marks
13 omitted).

14 It is clear the \$775,744.27 in damages set forth in the Statement of Damages is
15 simply a “bold optimistic prediction” and is not a reasonable estimate of Plaintiffs’
16 claims. *See id.* (“The leap from \$4,597.77 in medical expenses incurred to
17 [defendant’s] assertion that [plaintiff’s son] has suffered damages in excess of \$75,000
18 because he cries a lot and wakes up several times a night is difficult to credit.
19 [Defendant] cites no facts that indicate a damages award anywhere near \$75,000—let
20 alone \$1,000,000—is likely.”). Significantly, the Statement of Damages cites no facts
21 to explain how Plaintiffs determined this amount. *See* NoR at 5; Def. Resp. at 2;
22 *Romsa*, 2014 WL 4273265, at *2 (noting plaintiff’s statement of damages did not
23 explain how he arrived at his figures); *Schroeder v. Petsmart, Inc.*, Case No. 2:19-cv-
24 01561-FMO (AGRx), 2019 WL 1895573, at *2 (C.D. Cal. 2019) (same); *Mata v.*
25 *Home Depot U.S.A., Inc.*, Case No. 2:22-cv-01758-FMO (AFMx), 2022 WL 3586206,
26 at *2 (C.D. Cal. 2022) (same); *see also Owens v. Westwood College Inc.*, 2013 WL
27 4083624, at *4 (C.D. Cal. 2013) (finding plaintiff’s settlement demand letters could
28 not be used to establish the amount in controversy requirement because they

1 “demand[ed] an arbitrary settlement figure, with no showing of how [the] figure was
2 calculated”).

3 Defendant further argues that, via discovery, Plaintiffs produced medical
4 records “specify[ing] total [medical] billings of \$109,406.63.” Def. Supp. Resp. at 2.
5 Defendant provides no evidence to substantiate this assertion, despite the court’s
6 notice of a “two-pronged inquiry into the facial and factual sufficiency of Defendant’s
7 demonstration of jurisdiction.” See Dkt. 40 at 3. Instead, Defendant asks the court to
8 simply accept her statement regarding the medical records as true.


9 Given that any doubt regarding the existence of subject matter jurisdiction must
10 be resolved in favor of remanding the action to state court, *see Gaus*, 980 F.2d at 566,
11 the court is not persuaded, under the circumstances here, that Defendant has met her
12 burden of proving by a preponderance of the evidence that the amount in controversy
13 meets the jurisdictional threshold. Therefore, there is no basis for diversity
14 jurisdiction. See 28 U.S.C. § 1332.

15 CONCLUSION

16 For the foregoing reasons, the court REMANDS the action to the Los Angeles
17 County Superior Court, Case No. 21STCV35797. All dates and deadlines in this
18 court are VACATED. The clerk of the court shall close the action administratively.

19
20 IT IS SO ORDERED.

21
22 Dated: October 3, 2023

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24 
25 FERNANDO L. AENLLE-ROCHA
26 United States District Judge
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